

**IN THE CIRCUIT COURT FOR THE SECOND JUDICIAL CIRCUIT
IN AND FOR LEON COUNTY, FLORIDA**

Robert Davis, Jr., Vivian Scott, and Samuel McKinney,
Plaintiffs,

v.

Case No:

The City of Tallahassee,

Defendant.

COMPLAINT FOR DECLARATORY JUDGMENT AND INJUNCTIVE RELIEF

This is an action for declaratory judgment and injunctive relief challenging the legality of closing two public roads, Miles Street and Still Court. Plaintiffs sue the City of Tallahassee (“City”) for closing the two public roads in violation of Sections 8-39, 8-40, 8-41, 8-42, and 8-44 of the Tallahassee Land Development Code. Plaintiffs seek a declaration from the Court that the City’s closure of said roads on Monday, August 12, 2019 violates city law and seeks issuance of an injunction directing the City to immediately re-open the roads.

INTRODUCTION

This is a Blueprint Intergovernmental Agency and City of Tallahassee project, called Segment 3-D, to make a new connection between FAMU Way and Lake Bradford Road, and to permanently close the existing connection, Gamble Street. The new road will have the same number of lanes as the existing Gamble Street, but will provide space for “landscaping” on both sides, which has been cited by the assistant city manager as the needed reason for the entirely new road and alignment.

In order to create this new road, with landscaping on both sides, a historic black community was destroyed in its entirety and its residents dispersed. Still remaining is the Shingles cultural heritage site at the junction of Miles Street and Still Court, where even after

demolition of all the historic homes, Plaintiffs and the community still gather under the twin oaks as they have for over 70 years. (See Exhibit “A” with notation made of site location) Many of the gatherers have strong connections to the community whose families have lived there for many generations. Others started coming in the 1960’s when Shingles Chicken House became a center of the community, where people from all walks of life met to socialize. In a time of racial, civil-unrest it was truly a unique place where blacks and whites could dine and socialize together. Many remained unaware that this had been a historic gathering site of the community long before Shingles, in fact it was the site of the commissary for a turpentine still at the turn of the 20th century.

The shotgun homes, now recently demolished by the city, were built for the workers of said turpentine still. (See excerpt from 1997 Survey attached hereto as Exhibit “B”) Residents like Charles Smith’s great-grandmother, grandmother and mother overcame harsh working conditions to rise-up and purchase the houses they lived in. Many families eventually moved out of the small community, but they never forgot their deep connection to this community, always returning for special occasions, holidays, birthdays and funerals. Some returned on a regular basis just to maintain the social bonds that they had created so long ago. People regularly drive by on their way home or on their lunch break just to say hello, some unable to get out of their vehicles due to age or disability. They just roll down their window to partake in the socializing. A survey conducted in 1997 by the Tallahassee Historic Preservation Board confirmed that because of its rich history this community was eligible to be registered as a national historic district.

Plaintiff, Robert Davis, Jr., has fond memories of growing up in the community and churning ice cream, picking fruit and nuts, and generally running around and having a good time.

To this day he enjoys spending his time there and experiencing the natural setting, full of birds, plants and animals. Plaintiff, Vivian Scott, started coming to Shingles in 1968 when she was a little girl and still uses the roads almost everyday to connect with the community. Plaintiff, Samuel McKinney, was born and raised on Miles Street. He uses the roads everyday to access his community-gathering site and to sit in the shade of the heritage oaks.

Recently, buildings began to be demolished in the neighborhood, and the gatherers heard rumors of a new road coming though. However, they received no notice of this city project and nothing was posted on the site to indicate that access to the site would be closed. On Monday, August 12, 2019, barricades were erected closing Miles Street and Still Court including the junction where the community had gathered for so many decades. On Thursday, August 15th a semi-permanent fence was erected and remains today.

In order for the city to close a public road they must, in this order:

- (a) mail notice to all property owners within 1000 feet;
- (b) prominently post the application on the property;
- (c) publish in the newspaper notice of the review by the development review committee;
- (d) have the application reviewed by the development review committee;
- (e) advertise a public hearing on the closure at a city commission meeting;
- (f) publish notice again in the newspaper that the city commission will be holding a public hearing on the road closure; and
- (g) finally pass said road closure by city commission resolution.

The city has not completed any of these steps and presently the roads and the junction where the community gathers are closed, inaccessible and on the verge of being permanently destroyed.

As grounds for this action Plaintiff alleges the following:

JURISDICTION AND VENUE

1. This is an action for a declaratory judgment and injunctive relief.
2. This Court has subject matter jurisdiction over this action pursuant to sections 26.012(2)(a) and 86.011, Florida Statutes, because Plaintiffs seek declaratory relief and the rights and interests at issue are not quantifiable in monetary terms.
3. This Court also has subject matter jurisdiction over this action pursuant to section 26.012, Florida Statutes, because Plaintiffs seek supplemental injunctive relief.
4. Venue is proper under section 47.011, Florida Statutes, because Defendant is located in Leon County and the events and omissions at issue occurred in Leon County.

PARTIES

5. Plaintiff, Robert Davis, Jr., is a user of the junction of Still Court and Miles Street and has enjoyed use of said roads for over 40 years and continues to enjoy the roads until they were unlawfully closed by the city on Monday, August 12, 2019, without any notification to the public.
6. Plaintiff, Vivian Scott, has been meeting at the former site of Shingles Chicken since 1968 and returns almost every day to socialize with the community until the roads were closed on Monday, August 12, 2019.
7. Plaintiff, Samuel McKinney, was born on Miles Street and returns almost every day to travel to his sister's house until the roads were closed on Monday, August 12, 2019.
8. Closure of said roads has caused Plaintiffs to suffer a hardship by restricting their regular use of the public roads and denying their access to the junction where they and others have met for many years.

9. Defendant is the City of Tallahassee who closed the public roads of Miles Street and Still Court starting Monday, August 12, 2019.

BACKGROUND

10. Recently, the Blueprint Intergovernmental Agency (“Blueprint”) along with the City of Tallahassee (“City”) acquired most of the land in the neighborhood adjacent to Still Court and Miles Street, and demolished almost all of the housing.
11. The City of Tallahassee has received an environmental management permit (“TEM 180019,” which is not authorization to close a public road) to demolish the entire neighborhood, including Still Court and Miles Street, in order to construct a storm water pond and roadway extension of FAMU Way. (See Exhibit “A”)
12. At the junction of Still Court and Miles Street, which are public roads, there are two mature live oak trees approximately 60” diameter at breast height (“dbh”) shading a cultural heritage site where the people of the community, including Plaintiffs, gather every day at the former site of Shingles Chicken House.
13. Shingles Chicken was a famous fried chicken restaurant where people from around the state, including government workers, would come to dine and socialize. There, politicians and local people alike would rub shoulders and solve the problems of their day.
14. To this day, people regularly walk, bike and drive on Miles Street and Still Court, including Plaintiffs.
15. On August 12, 2019, the City of Tallahassee and/or its agents/contractors closed Still Court and Miles Street to the public, erecting a fence and signs indicating that the roads were closed. The City closed the streets in order to start site clearing in preparation for the destruction of Still Court and Miles Street.

16. At no time did the City of Tallahassee seek or receive a permit or resolution to close Still Court or Miles Street as required by section 8-44 of the Tallahassee Land Development Code.
17. By closing the roads and by failing to (1) notice the closure of the roads; (2) publish notice in the paper; (3) hold a public hearing; and (4) pass resolution, the city continues to violate section 8-39 through 8-44 of the Tallahassee Land Development Code.
18. Counsel for plaintiff brought these violations of city ordinance to the attention of City's counsel and the City to date has refused to open the two public streets.

COUNT I

Pursuant to the Declaratory Judgment Act, the City violated Section 8-39; 8-40; 8-41; 8-42; 8-44 of the Tallahassee Land Development Code by closing two public roads without complying with the City's road closure requirements.

19. Paragraphs 1 through 18 are realleged and incorporated herein by reference.
20. Under the declaratory judgments act, a "court may render declaratory judgments on the existence, or nonexistence...of any immunity, power, privilege, or right." Fla. Stat § 86.011. "Further relief based on a declaratory judgment may be granted when necessary or proper." Fla. Stat § 86.061.
21. City ordinance requires a "public entity" to apply for the "closure of the public street." § 8-40, Tallahassee Land Development Code. The City is a public entity, and to date, the City has made no such application.
22. City ordinance also requires the City to then engage in a lengthy process of noticing every property owner within 1000 feet; prominently posting notice on the property; gain approval by the development review committee; notice a public hearing at the city commission meeting; and finally, be approved by resolution of the city commission. § 8-44, Tallahassee

Land Development Code.

23. This lengthy process shows the high value that the city code places on the public interest in a city road and the injury that can result to residents when a public right of way is lost. To date, the City has not taken any of these required steps to close Still Court or Miles Street.
24. The city failed to take any of the steps required by the Tallahassee Land Development Code sections 8-39 through 8-44 to close either Miles Street or Still Court.
25. Since August 12, 2019, Plaintiffs have been unlawfully denied access to these two roads and have suffered from their closure, because they have been using said roads almost everyday for the past 40 years in order to get to all the places they need to go in their day and to connect with their community.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs pray for the following relief against the City of Tallahassee:

- (1) A declaration that the City's road closures of Still Court and Miles Street violate sections 8-39, 8-40, 8-41, 8-42, and 8-44 of the Tallahassee Land Development Code;
- (2) An injunction requiring the City of Tallahassee to immediately open Miles Street and Still Court and prohibiting their closure until the City of Tallahassee receives the resolution from the Tallahassee City Commission required by section 8-44 of the Tallahassee Land Development Code through the process required by sections 8-39, 8-40, 8-41, 8-42, and 8-44 of the Tallahassee Land Development Code; and
- (3) Pursuant to section 86.061, Florida Statutes, such further supplemental relief as the Court may deem necessary and proper.

WHEREFORE, Plaintiffs respectfully request this court to enter an order enjoining defendant from closing two public streets, until the correct process and required city resolution can be passed.

Respectfully submitted by: /s/ Leighanne Boone, Esq.
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Certificate of Service

A true and correct copy of the following has been furnished upon all parties via the Florida E-Courts Portal on the day of filing.

/s/ Leighanne Boone, Esq.

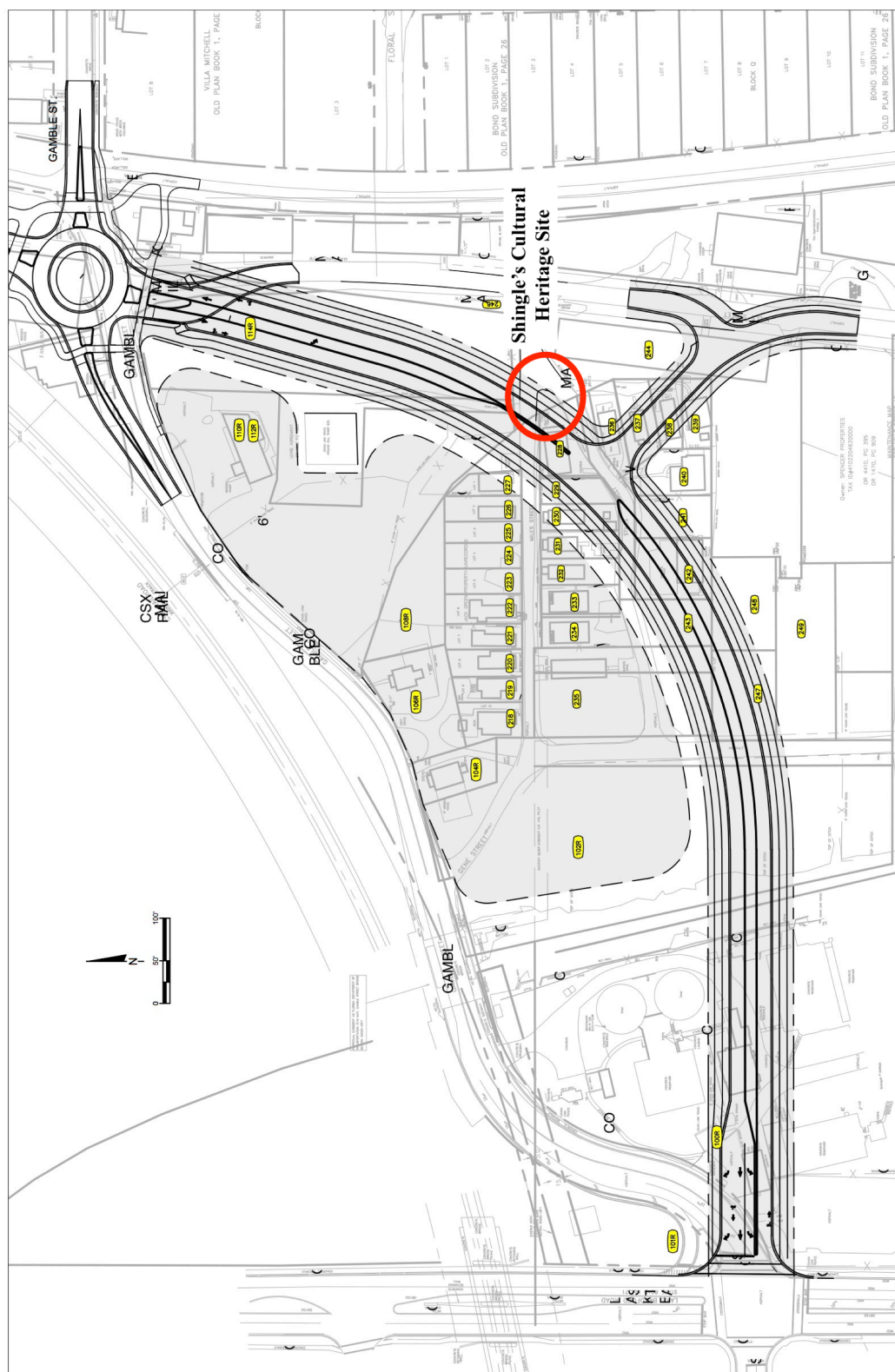


Exhibit "A"

5.3.6 Unrecorded Jack Green/adjacent Out Parcels

The properties on Miles Street and Still Court adjacent to Shingles Chicken House Restaurant are a historically significant complex. Although many of the shotgun houses have been enlarged and renovated, the spacing and narrow, shady street maintain their neighborhood's distinctive appearance. The shotguns, originally an "L" of nineteen, were constructed as company-owned workers' quarters for the African-American employees of a turpentine still operation on nearby Mill Street. According to residents, they also housed workers for a lumber company located near the railroad depot. In the 1940s they were sold as private residences. The former turpentine commissary anchoring the "L" became first a grocery store and then a family-run restaurant. The buildings' alterations in use and appearance over time have not obscured their cultural links to the past. The properties are identified on the tax rolls as "Unrecorded Plat - Jack Green" and as out parcels. Two adjacent frame vernacular houses on Gamble Street may have also been associated with the complex historically.

Exhibit "B"